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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,168	09/25/2003	Gil M. Vardi	S63.2H-12012-US01	2222
23552 7590 04/02/2007 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER HOUSTON, ELIZABETH	
			ART UNIT 3731	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 04/02/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/670,168

**Applicant(s)**

VARDI ET AL.

**Examiner**

Elizabeth Houston

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 13-24 is/are pending in the application.
- 4a) Of the above claim(s) 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>092404</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. For the record, claims 4, 7, 17 and 22 claim subject matter that does not have support in the parent case (09/860,744), therefore they will not receive the benefit of the earlier filing date.

### ***Election/Restrictions***

2. Claim 24 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 01/05/07.

3. Applicant's election with traverse of the invention of apparatus in the reply filed on 01/05/07 is acknowledged. No arguments to support the traversal have been submitted. This is not found persuasive because.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the attachment is along an entire length of said lumen" as in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There seems to be some language missing from the claim, which makes the claim unclear and not interpretable.

### ***Claim Objections***

7. Claim 1 is objected to for the following reason: Claim 1 recites the limitation "proximally from said side opening of said stent" in line 9. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 13 is objected to for the following reasons: Claim 13 recites the limitation "proximal portion connection" and "distal portion connection" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 23 is objected to for the following reasons: Claim 23 recites the limitation "said first guidewire and said second guidewire" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim. Although claim 13, recites "first guidewire" and "second guidewire", they are not being positively claimed but rather are being referred to in a functional limitation.

### ***Claim Rejections - 35 USC § 102***

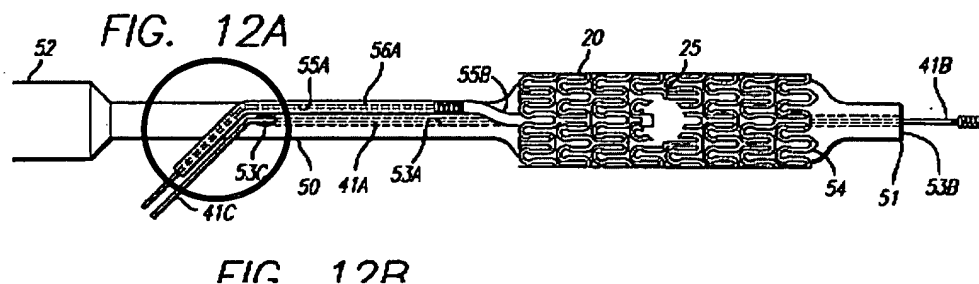
(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

10. Claims 1-4, 13-19 and 21-23 are rejected under 35 U.S.C. 102(a) as being anticipated by Wilson (EP 0 897 700).
11. Wilson discloses catheter system for position stent at a vessel bifurcation substantially as claimed (see entire document). Specifically, Wilson discloses a catheter (Fig 12a-c) comprising a channel (53a) having a main guidewire lumen extending from a distal end (51) to a main exit port (53c). There is a branch guidewire enclosure (55a)

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extending proximally from a side opening (25) of a stent (20) to a branch exit port (56c).

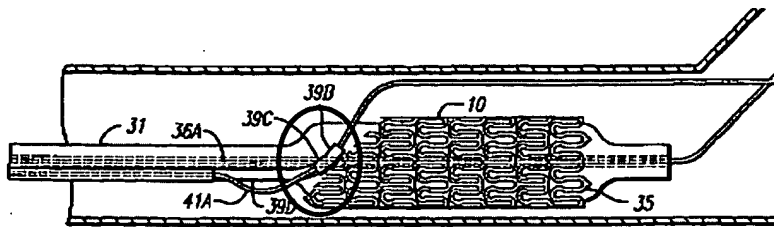
The first and second distances of the exit ports are less than a distance from the proximal end to the distal end of the catheter and greater than a distance from the distal end of the catheter to the proximal end of the stent. The device has a balloon (54) and an inflation portion for inflating the balloon. The catheter comprises a bond portion (indicated by circle - see below) that connects the main exit port, the branch exit port and a proximal tube. The first distance is approximately equal to the second distance. The bond comprises a three way bond in that it is bonding the main exit port, the branch exit port and the proximal tube/portion. The first/main guidewire lumen is attached to the branch/second lumen and is located at a predetermined distance from a proximal portion of the stent. The proximal portion of the bond/connection is at a distance from the distal portion bond/connection. The first and second guide wires exit at the bond portion.



12. Regarding claims 17 and 18, Wilson discloses a distal portion comprising a first and second lumen (39b and 39c) for receiving a first and second guide wires; a proximal tube portion; and a bond portion connecting the proximal and distal portion (see below). The bond portion comprises a three-way bond in that it bonds the shaft with the first lumen and the second lumen. The first and second lumens are attached to

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each other (indirectly) along an entire length of the second lumen and only at the bond portion.



**Claim Rejections - 35 USC § 103**

13. Claims 5, 6, 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson.

14. Wilson discloses the claimed invention as stated above except for the dimensions locating the exit openings and the length of the guidewire. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to vary the size of the catheter and therefore the location of the exit ports depending on the size and location of the lumen in which it would be used. For instance catheter used on an infant would be significantly smaller than that used on a large adult. Additionally, a catheter that is being delivered to the aorta will be larger than one that is being delivered to the brain. Such a modification would have involved a mere change in the size of a component, and a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Houston whose telephone number is 571-272-7134. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

eh

*[Handwritten signature]*  
03/28/07

*[Handwritten signature]*  
**ANH TUAN T. NGUYEN**  
**SUPERVISORY PATENT EXAMINER**

3/29/07